

REMARKS

Applicant's attorney is appreciative of the interview granted by the Examiner on February 3, 2011, with the participation of the inventor. At the interview, the inventor demonstrated the mask of the invention, as well as masks prepared according to the teachings of the Richardson and Lund references.

Claims 1, 6, 8, 12, 16, 19, 20, 23, 27, 28, 30 and 31 have been rejected under 35 USC 103(a) over Richardson in view of Lund et al. In addition, Claim 2 has been rejected over Richardson and Lund et al in view of McGuinness, Claims 9-11 and 13 have been rejected as obvious over Richardson and Lund et al in view of Wen, Claims 15 and 29 have been rejected under 35 USC 103(a) over Richardson and Lund et al in view of Courtney and Claims 32 and 33 have been rejected under 35 USC 103(a) over Richardson and Lund et al in view of Nur et al.

Both Richardson and Lund are directed to masks with two separate and distinct sealing means for securing the mask to the head of the user. According to Richardson, a chin strap is provided, attached to the upper portion of the mask, as well as a drawstring, which passes through a channel in the lower part of the mask.

In Lund, there is an elastic band provided for securing the mask to the neck of the user, and also a netting separate from the mask.

As discussed at the interview, Lund does not disclose if the elastic band is actually secured to the mask, or is separate from the mask. The demonstration was conducted with an elastic band secured to the mask in the back portion. The Examiner admitted that Lund did not clearly disclose a band separate from the mask, and stated her intent to withdraw the rejection over Lund.

As demonstrated, providing an elastic band as a securing

means separate from the mask enables the mask to be continuously adjustable, and to fit all sizes of heads. Thus, the valve is placed opposite the nose and mouth, and the band is placed at the point most effective to seal the mask to the neck of the user, and to eliminate excess air space within the mask. This placement provides effective sealing, and greatly reduces the amount of carbon dioxide that can accumulate within the mask.

Because the drawstring of Richardson and the elastic band of Lund are secured to the mask, if the valve is placed opposite the nose and mouth, the sealing means will frequently be in the wrong place for effective sealing and adjusting to minimize carbon dioxide accumulation; this was demonstrated at the interview. Conversely, if the drawstring or elastic band are located for maximum sealing, the valve will frequently not be opposite the nose and mouth.

The means provided for sealing the mask to the neck are extremely important, in order to prevent atmospheric gases from being inhaled by the user. In the absence of an effective neck seal, the chin strap of Richardson and the net of Lund do not assist in providing effective protection.

According to the invention, the sole sealing means is one or more circumferential elastic bands, separate from the mask. Claims 1, 27 and 32 have now been amended to specifically recite that the second part constitutes the sole means for securing the first part to the user, as is clearly shown in the drawings and described in the specification. Although a single elastic band is sufficient to provide an effective neck seal, multiple bands are often packaged in a mask kit, in the event that one band breaks, or the user desires a second band.

Because both Richardson and Lund teach sealing means of two distinct types, the invention is now clearly distinguished from these references.

With the withdrawal of the rejection over Lund, the Examiner indicated that her intent to institute a rejection over Richardson in view of van der Smissen, previously cited. This would be accompanied by a withdrawal of the finality of the rejection.

Van der Smissen discloses a mask arrangement in which a tying cord 9 in the form of a drawstring with eyelet 10 is provided to seal the mask to the neck, the tying cord apparently not being attached to the mask. It is not an elastic band.

Van der Smissen does not disclose or suggest that the tying cord is useful for precise positioning of the mask or reducing build up of carbon dioxide within the mask. That is because both of these functions are accomplished by the inner half mask separately secured to the head of the user. The inner half mask includes an exhalation valve, enabling direct exhalation of carbon dioxide to the outside. Carbon dioxide cannot build up in the space between the bag and the user, because exhalation takes place directly through the half mask.

The rejection over van der Smissen was originally withdrawn because the invention as claimed excludes the inner half mask required by this reference. However, van der Smissen also discloses two distinct means for securing the mask to the head of the user, the tying cord 9 in the form of a drawstring with eyelet 10 around the neck, and the band 8 securing the inner half mask to the head. This aspect of arrangement shown by van der Smissen is also excluded by the invention as now claimed, since the second part (the elastic sealing band) constitutes the sole means for securing the first part (the mask) to the user.

Thus, even if the tying cord of van der Smissen were deemed equivalent to the elastic band of the invention (which Applicant does not concede), van der Smissen would still not

suggest the invention, because van der Smissen does not teach that the tying cord is sufficient to provide both effective sealing around the neck and means for positioning the bag to minimize excess air space and minimize build-up of carbon dioxide. Indeed, van der Smissen requires a separately secured half mask to provide effective evacuation of carbon dioxide from the mask. This arrangement substantially increases cost and complexity of the mask and reduces foldability, and Applicant has found it to be entirely unnecessary.

The remaining references have been discussed in detail previously, and Applicant relies on the previous discussions.

Withdrawal of these rejections is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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